IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 83 OF 1992

1. Janu Ragho Patil (deceased)
2. Damodar Janu Patil ..Appellants

versus

The State of Maharashtra ..Respondents

AND

FIRST APPEAL NO. 959 OF 1991

The State of Maharashtra ..Appellants

versus

1. Janu Ragho Patil (deceased)
1A. Damodar J. Patil & Anr. ..Respondents

Mr.Rajiv Patil for the Claimants.

Mr. S. N.Gawade, AGP, for the State.

CORAM : D. G. DESHPANDE,J.

DATE : 12TH APRIL,2005

ORAL ORDER :

1. Appeal No. 959 of 1991 is filed by the State challenging compensation awarded by the Reference Court. Whereas Appeal No. 83 of 1992 is

filed by the claimants for further enhancement.

2. In all 5 Acres 30 gunthas and 4 Are of the land of the claimants situate at Village Ulwe, Taluka Panvel, District Raigad was acquired. SLAO awarded a meager compensation. Therefore, claimants filed Reference under Section and the Reference Court awarded only Rs.8/- per sq. meter. Claimants had claimed Rs.15/- per sq. meter, and therefore appeal by the claimants. According to the State compensation awarded at Rs.8/- per sq. meter is on higher side and therefore State has filed the appeal.

3. Counsel for the claimants relied upon the judgment of this court in Group of Appeals viz. **First Appeal No. 111 of 1996 and other Appeals dated 18th December, 2003 decided by Justice Kakade.** Lands acquired in those proceedings were from Village Targhar, Panvel, District Raigad. In that case taking into consideration the evidence of Epxert Jeevan Kulkarni and the sale instances produced and proved, this court has awarded compensation at Rs.15/- per sq. meter. Counsel for the claimants contended that in this case also the claimants are entitled for compensation at the rate of Rs.15/- per sq. meter. He drew my attention to the report of Expert Jeevan Kulkarni in this case,

his evidence and the maps filed by him, which are forming part of the record of the lower court. From the map it is clear that village Ulwe is to the southern corner of village Targhar but nearer to Panvel, if compared. Therefore the reasoning given by this Court in the judgment of Justice Kakade dated 18.12.2003 aptly apply to the present case.

4. However, the learned AGP contended that the main reason for awarding compensation in the group of appeals by Justice Kakade was proof of sale instances. In the present case according to him, no sale instances have been proved by the claimants and therefore awarding compensation at Rs.15/- per sq. meter will not be proper.

5. Taking into consideration the judgment of Justice Kakade but also the fact that the claimants have not proved any sales instances and also giving due weightage to the fact that Rs.15/- per sq. meter has been awarded by Justice Kakade is in respect of the land acquired from Village Targhar, Rs.12/- per sq. meter would be proper compensation in this case. Therefore, Order:

ORDER

. Appeal No.959 of 1991 filed by the State is

dismissed

. Appeal No. 83 of 1992 filed by the claimants is partly allowed. The claimants will be entitled to compensation at the rate of Rs.12/- per sq. meter with proportionate increase in the statutory benefits. No order as to costs in these Appeals.

12.04.2005 (D.G. DESHPANDE, J.)